

Remarks

Applicant gratefully acknowledges the telephone conversation between the Examiner and Applicant's attorney during which patentable subject matter was discussed but not agreed upon. To summarize: 1) Examiner Steele confirmed that she spoke again with the PE of Class 66 and he reiterated his opinion that the specification does not disclose non-channeled structures; 2) Applicant's attorney expressed intent to remove "non-channeled" and "spanning connections" subject matter from claims and specification but did not concede it was new matter; 3) The cross-sectional difference in yarn weights of Siegel was discussed; 4) The non-uniformity of cross-sectional thickness of Siegel was discussed; and 5) Siegel's seam closing functionality and structure was discussed.

The Office Action dated February 2, 2008, has been carefully considered. After such consideration, independent Claims 1 and 9 have been amended and new Claim 16 was added. As such, Claims 1-7; and 9-16 remain in the case with none of the claims currently being allowed.

§112 Rejections

Independent Claims 1 and 9 were rejected for a lack of written description for their recitation of "**substantially non-channeled**". While Applicant respectfully maintains that the present invention is substantially non-channeled insofar as a mattress tape could not be positioned within, the offending language has been removed to expedite prosecution. Withdrawal of the rejections is respectfully requested.

Independent Claims 1 and 9 were also rejected for a lack of written description for their recitation of "**spanning connections**". While Applicant respectfully maintains that a Person Having Ordinary Skill In The Art would understand "spanning connections" to comprise C and W, this recitation has been removed from both claims to expedite prosecution. Withdrawal of the rejections is respectfully requested.

§103 Rejections

Independent Claim 1 and dependent Claims 2-7 were rejected as obvious in view of Siegel *et al.* (US 5,472,766), Gajjar (US 4,638,648), Frenzel (US 4,893,482) and Spencer

(Knitting Technology). In response, independent Claim 1 has been amended to limit the mattress closing tape to being “of substantially uniform thickness in cross-section.” This differentiates the present invention from the mattress tape of Siegel whose center section 14 contains an inlay that is thicker in cross-section than the side sections 10 and 12. (See col. 4, lns. 39-49, and Figs. 2 and 3).

Siegel teaches against using (woven) mattress tapes of uniform thickness, characterizing it as:

“...limiting the degree of shape holding ability that may be obtained by the tape. If the tape is designed too stiff in the edges it will not hold in the track of the mattress binding machines, and if the tape is not designed stiff enough in the center it will not be capable of holding its shape without wrinkling. Thus, there is a limit to how firm the tape can be and still sew properly. Further, to achieve the desired shape holding capability in prior art woven tape, an excess of yarn must be utilized in the edge regions, increasing the cost of the mattress tape.” (See col. 1, lns. 35-45).

Applicant points out that uniform versus non-uniform thickness is not merely a design choice. Rather, Siegel’s tape of non-uniform thickness creates an unsightly and uncomfortable “nub” over the seam (see Fig. 2). The present inventions, in contrast, provides aesthetically pleasing and tactilely satisfying smoothness.

Finally, the “substantially uniform thickness in cross-section” structure of the present invention is inherent to the tape structure disclosed in the originally filed specification. Specifically, the figures show a pattern of consistent yarn distribution lengthwise and widthwise along the tape. Accordingly, the resulting tape would be substantially uniform in thickness.

Independent Claim 9, and dependent Claims 10-15 were rejected as obvious in view of Siegel *et al.* (US 5,472,766), Gajjar (US 4,638,648), Frenzel (US 4,893,482) and Spencer (Knitting Technology). In response, Applicant respectfully points out that Claim 9 is directed towards a mattress tape for use in combination with a mattress having an edge bead, whereas Siegel is directed towards “...tape used to finish and close the edges of ‘mattresses’.” (See col. 1, lns. 21-24). Accordingly, Siegel provides structural integrity to the seam whereas the present invention finishes the seam. While Applicant concedes Siegel’s tape could lend itself to use with

a mattress bead, doing so would not be obvious to a Person Having Ordinary Skill In The Art given the non-uniform thickness of Siegel would unnecessarily introduce bulkiness to the mattress edges. For that reason, Applicant does not consider Siegel properly applied to Claim 9.

However, for purposes of expediting prosecution, Applicant has amended Claim 9 to limit the construction to substantially uniform denier distribution throughout. This patentably distinguishes the present invention over Siegel, which discloses incorporating a stiff inlay in the middle section by:

“use of a single inlay thread of desired denier or several inlay threads of a lower denier which in aggregate will make up the desired denier. Thus, the fabric section having the greater fabric weight or thickness [the inlay] will inherently be stiffer.” (Bracketed text added. See col. 4, lns. 45-49).

As discussed above with respect to non-uniform versus uniform thickness in cross-section, the choice of uniformity of denier distribution is not a mere design choice. Rather, it is rooted in engineering a structure that provides the desirable qualities of smooth appearance and touch. Moreover, the “substantially uniform denier distribution throughout” structure of the present invention is inherent to the tape structure disclosed in the originally filed specification. Specifically, the figures show a pattern of consistent yarn distribution lengthwise and widthwise along the tape. Accordingly, the resulting tape would be substantially uniform in denier distribution.

In view of the patentability of independent Claims 1 and 9, as amended, dependent Claims 2-7 and 10-15 that respectively depend therefrom, are likewise believed patentable. Accordingly, claim allowance is respectfully requested.

Other Amendments

The Specification has been amended to remove subject matter pertaining to “substantially non-channeled” and “spanning connections” as indicated in the section above entitled “Amendments to the Specification”.

Independent Claim 16 has been added for examination. This claim does not introduce new matter.

By this amendment, the Applicant believes he has placed the case in condition for allowance and such action is respectfully requested. If, however, any issue remains unresolved, applicant's attorney would welcome the opportunity for a telephone interview to expedite allowance and issue.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Edward W. Rilee', written in a cursive style.

Edward W. Rilee
Registration No. 31,869
MacCord Mason PLLC
P.O. Box 2974
Greensboro, NC 27402
(336)273-4422

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